



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUN 16 2010

REPLY TO THE ATTENTION OF: WC-15J

CERTIFIED MAIL 7001 0320 0006 0190 9626
RETURN RECEIPT REQUESTED

FOIA Exemption (b) (6)

FOIA Exemption (b) (6)

Breese Site Hog Farm
19722 Low Bridge Road
Breese, Illinois 62230

Subject: Breese Site Hog Farm Findings of Violation,
Order for Compliance and Request for Information
Pursuant to 33 U.S.C. §§ 1318 and 1319(a).
Docket No. V-W-10-AO-09

Dear Sirs:

Protecting water quality is a high priority of the U. S. Environmental Protection Agency. Pollutants such as excessive nutrients and pathogens discharged to waterways from animal feeding operations contribute to poor water quality and impairment of uses of those waterways.

As you know, EPA recently inspected your facility. At the time of the inspection, we found violations of the Clean Water Act (CWA). Enclosed is the above-referenced Findings of Violation, Order for Compliance and Request for Information. Compliance with the terms of this Order is required within the time periods specified in the Order. Failure to comply with the Order may subject Breese Site Hog Farm located at 19722 Low Bridge Road to further enforcement action pursuant to Section 309 of the CWA.

Please send your written responses to the addresses specified in the Order. This Order requires you to immediately cease all unauthorized discharges and construct the necessary facilities to comply with the CWA. This Order also requires that you submit a complete National Pollutant Discharge Elimination System permit application to Illinois EPA.

Please be advised that neither the issuance of this Order by EPA nor compliance with its terms affects Breese Site Hog Farm's obligation to comply with the CWA or any other Federal or State laws or regulations, nor does it preclude further enforcement action

pursuant to 33 U.S.C. § 1319 for the violations cited herein or any other violations committed by Breese Site Hog Farm.


Under the General Provisions within the Order you have the right to request an informal conference with EPA within ten (10) calendar days of receipt of this Order. Any such conference shall be held within fifteen (15) calendar days from the date of the request, unless extended by the agreement of the parties.

Assistance with constructing structures necessary to comply with this order may be available through the Environmental Quality Incentives Program (EQIP). EQIP was reauthorized in the Farm Security and Rural Investment Act of 2002 (Farm Bill) to provide a voluntary conservation program for farmers and ranchers that promotes agricultural production and environmental quality as compatible national goals. EQIP offers financial and technical help to assist eligible participants install or implement structural and management practices on eligible agricultural land. EQIP is a competitive program. In order to sign up for EQIP, Natural Resources Conservation Service (NRCS) must determine the applicant to be an eligible producer, as well as the land must be eligible. NRCS assistance is available at any USDA Service Center. EQIP sign-up information is available online at (www.il.nrcs.usda.gov/programs/eqip/).

Also enclosed is a copy of the Concentrated Animal Feeding Operation Inspection Report conducted by this Agency on March 18, 2010. If you have any questions concerning this matter, please contact Ms. Joan Rogers of my staff at (312) 886-2785.

Sincerely,



 Tinka G. Hyde
Director, Water Division

Enclosures

cc: Mike Garretson, IEPA
Bruce Yurdin, IEPA
Joe Stitely, Marion District Office, IEPA
Bruce Rodely, Marion District Office, IEPA
Byron Marks, Marion District Office, IEPA

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:

Breese Site Hog Farm,
19722 Low Bridge Road
Breese, Illinois 62230

RESPONDENTS:

FOIA Exemption (b) (6)
FOIA Exemption (b) (6) Pork Farms,
FOIA Exemption (b) (6)
FOIA Exemption (b) (6) and
MSSA Partnership

DOCKET NO. V-W-10-AO-09

FINDINGS OF VIOLATION

ORDER FOR COMPLIANCE

AND

REQUEST FOR INFORMATION

The following **FINDINGS** are made and **ORDER** issued pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency under Sections 308 and 309(a) of the Clean Water Act (CWA), 33 U.S.C. §§ 1318 and 1319(a). The Administrator has delegated this authority to the Regional Administrator of EPA, Region 5, who has duly re-delegated this authority to the undersigned Director, Water Division, EPA, Region 5, who hereby issues this Findings and Order.

GENERAL ALLEGATIONS

1. The subject of this matter is the Breese Site Hog Farm, a facility located at 19722 Low Bridge Road, Breese, Illinois 62230. The real estate is owned by MSSA Partnership and the partners FOIA Exemption (b) (6) and FOIA Exemption (b) (6); the facility is, or was at all times relevant to this Order, leased and operated by FOIA Exemption (b) (6) of FOIA Exemption (b) (6) Pork Farms.

2. **FOIA Exemption (b) (6)** **FOIA Exemption (b) (6)** Pork Farms, **FOIA Exemption (b) (6)** **FOIA Exemption (b) (6)** and MSSA Partnership (hereinafter referred to collectively as “Respondents”) are persons as defined at Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
3. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), provides that the discharge of any pollutant, by any person, is unlawful except when in compliance with that section or other specified sections of the CWA including Section 402, 33 U.S.C. § 1342. Pursuant to Section 502(12) of the CWA, 33 U.S.C. § 1362(12), the term “discharge of pollutants” includes any addition of any pollutant to navigable waters from any point source.
4. “Pollutant” is defined as dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water, according to Section 502(6) of the CWA, 33 U.S.C. § 1362(6).
5. “Point source” is defined as any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged, according to Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
6. “Navigable waters” are defined as the waters of the United States, under Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
7. Section 402 of the CWA, 33 U.S.C. § 1342, establishes the National Pollutant Discharge Elimination System (NPDES) permit program. Pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b), the Administrator of the EPA, on October 23, 1977, approved a

program whereby the State of Illinois, through the Illinois Environmental Protection Agency (IEPA), was authorized to issue and administer NPDES permits as set forth in the CWA and in the Memorandum of Agreement between EPA and the IEPA dated May 12, 1977.

8. Pursuant to 40 CFR § 122.23(b), a swine operation is a large Concentrated Animal Feeding Operation (CAFO) if it meets the following criteria:
 - (a) Animals have been, are, or will be stabled or confined, and fed or maintained for a total of 45 days or more in any 12-month period;
 - (b) Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility; and
 - (c) 2500 swine each weighing 55 pounds or more are stabled or confined at the site.
9. “Production area” is defined as the part of the swine operation that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment area (40 CFR § 122.23(b)(8)).
10. “Process wastewater” is defined as water directly or indirectly used in the operation of the swine feeding operation for any or all of the following: spillage or overflows from animal watering systems; washing, cleaning or flushing of pens, barns, manure pits or other facilities; direct contact swimming, washing, or spray cooling of animals; dust control; any water that comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding (40 CFR § 122.23(b)(7)).
11. “Unnamed Tributary” is defined as the tributary flowing through the facility, which flows to Shoal Creek as denoted in Attachment A in the May 5, 2010 Inspection Report, which is appended to this Order as Exhibit 1.

12. The NPDES program established under the CWA regulates the discharge of pollutants from point sources to waters of the United States.
13. Pursuant to 40 CFR § 122.23(d)(1), all CAFO owners or operators who discharge must seek coverage under an NPDES permit, except as provided in 40 CFR § 122.23(i).
14. Pursuant to 40 CFR §§ 412.43(a) and 412.31(a), CAFO production areas shall not discharge any manure, litter, or process wastewater pollutants into the waters of the United States, except when:
 - (a) Precipitation causes an overflow of manure, litter, or process wastewater;
 - (b) Such overflow is from a production area that is designed, constructed, operated and maintained to contain all manure, litter, and process wastewater including the runoff and the direct precipitation from a 25-year, 24-hour rainfall event; and
 - (c) The production area is operated in accordance with the additional measures and records required by 40 CFR § 412.37(a) and (b).

FINDINGS

15. During a March 18, 2010 inspection, EPA determined that the Breese Site Hog Farm is a large CAFO due to the following observations:
 - (a) Animals are stabled or confined at the site for a total of 45 days or more in a 12-month period;
 - (b) Crops, vegetation, forage growth, or post-harvest residues are not sustained over any portion of the confinement areas at any time of the year, including the normal growing season; and
 - (c) Approximately 5,000 swine over 55 pounds had been stabled or confined on the site within the previous 12-month period.

16. During the March 18, 2010 inspection, EPA identified the following violations and/or deficiencies (refer to Attachments A through D in the Inspection Report, appended to this Order as Exhibit 1, for locations listed below):
- (a) Manure and process waste water discharged from the storm water tile pipe in the yard between Barn #3 and Barn #4 to the storm water pond.
 - (b) Manure and process waste water discharged from the cleanout pipes alongside several of the barns, including from Barn #3 to the storm water pond, and from Barn #5 to the yard between Barn #5 and Barn #6.
 - (c) Manure and process waste water discharged from the eastern-most concrete cleanout for the underground manure pipe for Barn #2 and Barn #3, to the storm water pond.
 - (d) Manure and process waste water discharged from the northeast corner of Barn #6 to the marsh area and the Unnamed Tributary to Shoal Creek.
 - (e) Manure and process waste water discharged from the culvert under the access road between Barn #7 and Barn #8 to the marsh area and the Unnamed Tributary to Shoal Creek.
 - (f) Manure and process waste water discharged from the southeast corner of the East North Lagoon to the marsh area and the Unnamed Tributary to Shoal Creek.
 - (g) Manure and process waste water discharged from the south side of the West North Lagoon to the marsh area and the Unnamed Tributary to Shoal Creek.
 - (h) Storage holding ponds did not have adequate freeboard.
 - (i) Storage pits below all the barns, except Barn #5, were completely full.

- (j) Manure is able to leak out of the pit below Barn #5 due to a crack in the wall of the pit on the southeast side.
 - (k) Manure is able to discharge from the broken manure line by the northeast corner of Barn #6.
 - (l) Storm water is able to enter the storage pit of Barn #7 through the roof which has partially collapsed.
 - (m) Trees and woody growth were growing on the berms of the 5-6 Lagoon and the North Lagoons.
 - (n) Grain spills beneath the grain bins were not cleaned up in a timely manner.
 - (o) Rodents and rodent holes were visible around the barns and in the berms of the storage holding ponds.
 - (p) Abandoned cars and garbage are dumped along the north side of the facility by the Complex Lagoon.
 - (q) Manure has overtopped the berm between the North Lagoons.
 - (r) Manure and process waste water discharged from the storm water pond to the marsh area and the Unnamed Tributary to Shoal Creek.
- 17. The Breese Site Hog Farm is a point source, and discharges pollutants from point sources.
 - 18. The Respondents discharge process wastewater which contains pollutants, from the Breese Site Hog Farm.
 - 19. Pollutants were discharged from a CAFO production area, or areas, to an Unnamed Tributary. The Unnamed Tributary flows to Shoal Creek which flows to the Kaskaskia River. The Kaskaskia River flows to the Mississippi River. Shoal Creek, the Kaskaskia River, and the Mississippi River are navigable waters of the United States as defined at

Section 502(7) of the CWA, 33 U.S.C. § 1362. The Respondents' discharges of pollutants from the Breese Site Hog Farm are additions of pollutants to waters of the United States.

20. The Respondents are in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), because they discharge pollutants without an NPDES permit issued under Section 402 of the CWA, 33 U.S.C. § 1342.

ORDER FOR COMPLIANCE

BASED ON THE FOREGOING FINDINGS and the authority vested in the undersigned Director, Water Division, Region 5, IT IS HEREBY ORDERED:

21. Upon the effective date of this Order (Effective Date), Respondents shall cease all unauthorized discharges from 19722 Low Bridge Road, Breese, Illinois 62230.
22. Within five (5) calendar days of the Effective Date of this Order, the Respondents shall submit a certification that they intend to comply with this Order.
23. Upon the Effective Date of this Order, the Respondents shall immediately implement interim measures to eliminate the following unauthorized discharges:
- (a) From the storm water tile pipe in the yard between Barn #3 and Barn #4 into the storm water pond;
 - (b) From the cleanout pipes alongside the barns;
 - (c) From the furthest east concrete cleanout for the underground manure pipe for Barn #2 and Barn #3 into the storm water pond;
 - (d) From the northeast corner of Barn #6 to the marsh area and the Unnamed Tributary to Shoal Creek;
 - (e) From the culvert under the access road between Barn #7 and Barn #8 to the marsh area and the Unnamed Tributary;

- (f) From the southeast corner of the East North Lagoon to the marsh area and the Unnamed Tributary;
 - (g) From the south side of the West North Lagoon to the marsh area and the Unnamed Tributary.
24. Within thirty (30) calendar days of the Effective Date of this Order, the Respondents shall submit to EPA documentation of the implementation of the interim measures which were used to comply with Paragraph 23 of this Order. The Respondents shall submit the dates the interim measures were installed and the time period during which these interim measures will remain in place. The Respondents shall provide detailed descriptions and photographs of the interim measures.
25. Within one hundred and twenty (120) calendar days of the Effective Date of this Order, the Respondents shall submit a complete permit application to IEPA with a copy sent to EPA, including but not limited to, all maps and diagrams, a Nutrient Management Plan, a Storm Water Management Plan, and an Emergency Response Plan.
26. Within one hundred and twenty (120) calendar days of the Effective Date of this Order, the Respondents shall submit to EPA for review and approval a plan, including design drawings, developed by a registered professional engineer, which will result in containment and adequate storage for manure, litter, and process wastewater from the production areas including, but not limited to, mortality piles and feed storage areas. The design shall demonstrate a minimum volume of containment and storage such that:
- (a) No manure or process wastewater discharges from production areas, except whenever precipitation causes an overflow of manure or process wastewater from a structure that is designed, constructed, and maintained to contain all manure and

process wastewater including runoff and direct precipitation from a 25-year, 24-hour rainfall event;

- (b) Manure and process wastewater are not applied on the surface of the land in the winter when the ground is frozen or snow covered or when the soil is saturated. However, the design storage volume may be reduced to account for permissible winter surface application of manure and process wastewater on land application areas that are downslope from waters of the United States, sinkholes, open tile line intake structures, and other conduits to waters of the United States; and
- (c) The following volumes are included in the design:
 - (i) a volume to contain and store normal precipitation (less evaporation) on the surface of the structure during the periods contemplated in Paragraphs 26(a) and 26(b), above;
 - (ii) a volume to contain and store normal runoff during the periods contemplated in Paragraphs 26(a) and 26(b), from the production areas and any upslope areas from which the clean runoff is not diverted around the production areas;
 - (iii) a volume to contain and store residuals that remain after liquids are removed from the structure; and
 - (iv) two (2) feet of freeboard.

- 27. Designs and specifications that provide a volume for containment and storage that is less than 180 days shall be accompanied by a technical analysis which demonstrates that the lesser volume will assure compliance with Paragraph 14 of this Order.

28. The plans submitted shall be concurrently submitted to the IEPA and to the Illinois Department of Agriculture. The Respondents shall obtain all required state and local approvals. Copies of these approvals and permits shall be submitted to EPA within ten (10) calendar days of receiving approvals.
29. If the submitted plans designed to provide containment and adequate storage for manure, litter, and process wastewater from the production areas including, but not limited to, mortality piles and feed storage areas, are approved by EPA, the Respondents shall start construction of any storage facility or necessary containment structure within sixty (60) calendar days of approval.
30. Within sixty (60) calendar days of starting construction, the Respondents shall complete the construction of any storage facilities or containment structures that are designed to provide containment and adequate storage for manure, litter, and process wastewater from the production areas including, but not limited to, mortality piles and feed storage areas.
31. Within ten (10) calendar days of completion of construction of any storage facility, the Respondents shall install and maintain permanent capacity depth markers on all liquid surface impoundments. The permanent capacity depth markers on all liquid impoundments shall be clearly marked to indicate:
 - (a) The minimum capacity necessary to contain the runoff and direct precipitation of a 25-year, 24-hour rainfall event; and
 - (b) Two (2) feet of freeboard above the minimum capacity necessary to contain the runoff and direct precipitation of the 25-year, 24-hour rainfall event.
32. Within ten (10) calendar days of the Effective Date of this Order, the Respondents shall install and maintain permanent capacity depth markers on all existing liquid surface

impoundments. The permanent capacity depth markers on all liquid impoundments shall be clearly marked to indicate:

- (a) The minimum capacity necessary to contain the runoff and direct precipitation of a 25-year, 24-hour rainfall event; and
- (b) Two (2) feet of freeboard above the minimum capacity necessary to contain the runoff and direct precipitation of the 25-year, 24-hour rainfall event.

- 33. The Respondents shall at all times maintain a minimum of two (2) feet of freeboard in all open surface liquid impoundments.
- 34. Whenever the amount of freeboard in any liquid surface impoundment is less than two (2) feet, the Respondents shall take immediate steps to reduce the volume in compliance with this Order. The Respondents shall notify IEPA and EPA in writing at the addresses specified below that proper freeboard was not maintained and that corrective steps were taken within three (3) calendar days of discovering that two (2) feet of freeboard had not been maintained. Such notification shall include the specific liquid impoundment affected, the amount of freeboard, and the corrective actions taken by the Respondents to maintain adequate freeboard.
- 35. Within ten (10) calendar days of the Effective Date of this Order, the Respondents shall conduct inspections to ensure compliance with this Order. Records of these inspections shall be maintained for a term of five (5) years after they are created, and shall include the date of the inspection and the signature of the person inspecting. These inspections shall include the following:

- (a) Weekly inspections of all storm water diversion devices, runoff diversion structures, and devices channeling contaminated storm water to the wastewater and manure storage and containment structure;
 - (b) Daily inspections of water lines, including drinking water or cooling water lines;
 - (c) Weekly inspections of the manure, litter, and process wastewater impoundments, including inspection for freeboard, discharge caused by overflow, broken pipes or equipment failure, and any leaks, seeps, erosion, or damage caused by burrowing animals. Routine maintenance, including mowing of liquid impoundment berms, shall be conducted in a manner to facilitate these inspections. Records of these inspections shall include the amount of freeboard observed at the time of the inspection.
36. Within one hundred and twenty (120) calendar days of the Effective Date of this Order, the Respondents shall develop, maintain, and implement an appropriate schedule for routine effective preventive maintenance. A maintenance log shall be signed by the owner/operator documenting that preventive maintenance has been accomplished. The maintenance program shall address inspections and maintenance of all runoff management devices, separators, catch basins, storage ponds, and tanks, as well as inspection and testing facility equipment for conditions that could cause breakdowns or failures which may result in the discharge of pollutants. The maintenance log shall be maintained for a term of five (5) years after it is created.
37. Within thirty (30) calendar days of the Effective Date of this Order, the Respondents shall post and ensure that all employees are fully aware of the proper procedures to effectively respond to any spill or discharge to waters of the United States. The posted procedures

shall contain detailed response instructions that include, but are not limited to, the names of the officials to be notified, State and Federal agencies to be notified, local or downstream public water supply and public health entities to be notified, appropriate phone numbers and addresses, safety precautions, and immediate actions to abate the occurrence.

38. Solid material including sludge, manure, or other pollutants accumulated in the waste control facilities shall be removed as necessary and disposed of or land applied in accordance with the requirements of this Order in a manner so as to prevent pollutants from being discharged to waters of the United States.
39. Unless the land application area is downslope from waters of the United States, sinkholes, open tile line intake structures, and other conduits to waters of the United States, surface land application of manure and process wastewater shall not be undertaken when soil is saturated, frozen, covered with ice or snow, during precipitation, or when the National Weather Service predicts a 50 percent or more probability of a rain equal to or greater than the applicable quantity provided below within 24 hours of the conclusion of a planned land application event.

Land Application Area Hydrologic Soil Group	Quantity of Precipitation (inches)
A	1
B	0.56
C	0.25
D	0.25

The National Weather Service forecast may be viewed at

<<http://www.nws.gov/mdl/synop/products.html>>. See Urban Hydrology for Small

Watersheds (United States Department of Agriculture, Natural Resources Conservation

Service, 1986, Technical Release 55, available at

<<http://www.wcc.nrcs.usda.gov/hydro/hydro-tools-models.html>>) for information on the Hydrologic Soil Groups within which a given soil is classified. Records of weather forecasts shall be maintained by the facility for each land application event.

40. Land application practices shall be managed so as to avoid ponding or puddling of wastewater on the site.
41. A schedule and procedures for lagoon or waste storage pond dewatering shall be retained at the facility.
42. The Respondents shall conduct annual analyses of representative samples of the manure, litter, and process wastewater to be land applied. The samples shall be analyzed for the following parameters: Total Kjeldahl Nitrogen (mg/l), ammonia nitrogen (mg/l), total phosphorus (mg/l), and percent total solids. The laboratory analysis sheets reporting the analysis of the samples shall be kept on file at the facility for a term of five (5) years after they are created.
43. When the Respondents transfer waste to another person, the Respondents shall retain records of the transfer and provide the recipient with the most recent nutrient analysis representative of the waste that is conducted in accordance with Paragraph 42. Records of the transfer shall be maintained for a term of five (5) years after they are created.
44. The Respondents shall record the following information for each day during which manure or process wastewater is applied to land. These records shall be maintained for a term of at least five (5) years from the date the records are created, and shall include:
 - (a) The date(s) manure, litter, or process wastewater is applied to each field;

- (b) The field identification reference, size, rate of application, and amount of manure applied to each field;
 - (c) Weather conditions at the time of application and for 24 hours prior to and following application, and soil moisture conditions at the time of application;
 - (d) Test methods used to sample and analyze manure, litter, process wastewater, and soil;
 - (e) Results from manure, litter, process wastewater, and soil sampling;
 - (f) Calculations showing the total nitrogen and phosphorus to be applied to each field due to the application of manure, litter, process wastewater, and all other sources;
 - (g) Total amount of nitrogen and phosphorus applied to each field in pounds per acre per year from manure, litter, process wastewater, and all other sources;
 - (h) Date(s) and results of manure application equipment inspection;
 - (i) Inspection of all ditches, drains, and field tile outlets tributary to the application field before and after the land application, and appropriate actions taken to eliminate the discharge if a discharge is discovered.
45. The Respondents shall take all reasonable steps to prevent and minimize any discharge in violation of this Order or the CWA.
46. The discharge of waste/wastewater from the Breese Site Hog Farm to waters of the United States is not authorized by this Order and any such discharges may be subject to enforcement. If for any reason there is a discharge of manure or process wastewater to waters of the United States, the owner/operator is required to visually monitor and immediately notify Region 5, EPA, Attention: Joan Rogers, by phone at 312-886-2785 or by fax at 312-692-2144, and the Illinois Emergency Management Agency by phone at

800-782-7860. The Respondents shall document the following information and submit a report to EPA and IEPA within five (5) calendar days of becoming aware of the discharge:

- (a) A description and cause of the discharge, including an estimate of the flow, discharge volume, and any analytical data;
 - (b) The period of discharge, including exact beginning and ending dates and times, and if not corrected, the anticipated time the discharge is expected to continue, and steps taken or to be taken to reduce, eliminate, and prevent the recurrence of the discharge; and
 - (c) If the discharge was caused by a precipitation event, precipitation information from an on-site rain gauge or the closest official National Weather Service weather station.
47. The Respondents shall submit all reports required by this Order to the Director, Water Division, Region 5, EPA, Attention: Joan Rogers, Water Enforcement and Compliance Assurance Branch, (WC-15J), at 77 West Jackson Boulevard, Chicago, Illinois 60604, with copies to IEPA, Attention: Byron Marks, Manager, Illinois EPA-DWPC, 2309 West Main Street, Marion, Illinois 62959.

REQUEST FOR INFORMATION

Pursuant to the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a), EPA is requiring the Respondents to submit certain information in response to the following Information Request:

48. Within ninety (90) calendar days of the Effective Date of this Order, the Respondents shall submit a record of costs required to ensure that the livestock operations are in compliance with the requirements of the NPDES permit including, but not limited to:

- (a) Cost for design and drawings developed by a registered professional engineer, which results in containment and adequate storage for manure, litter, and process wastewater from the production area, including but not limited to mortality piles and feed storage areas;
 - (b) Estimated cost to construct any storage structure designed by a registered professional engineer;
 - (c) Estimated cost to maintain adequate capacity in the storage structures;
 - (d) Cost to remediate the existing conditions and prevent runoff from the barns, cleanouts, pipes, and holding ponds; and
 - (e) Annual cost to maintain the berms and sidewalls of all storage structures.
49. The Respondents shall submit documentation of the number of hogs confined each month from March 2010 to the present at the facility. Include in the documentation the approximate weight of the hogs that are confined in all portions of the facility, including, but not limited to, the barns used in the growing and finishing of hogs.
50. Respondents **FOIA Exemption (b) (6)** and **FOIA Exemption (b) (6)** Pork Farms shall provide a description of the corporate or business structure of the entity operating at the Breese Site Hog Farm, including a statement of whether the facility is operated by a corporation, a partnership, or a sole proprietorship. Provide the full formal name of the corporation, partnership, or sole proprietorship; also identify any and all fictitious names used. List the names and addresses of all persons who currently own an interest in **FOIA Exemption (b) (6)** Pork Farms. List the names and addresses of all persons who are officers and/or directors of **FOIA Exemption (b) (6)** Pork Farms.

51. Respondents [FOIA Exemption (b) (6)] [FOIA Exemption (b) (6)] and MSSA Partnership shall provide the names and addresses of all persons who own or have an ownership interest in the real estate comprising the Breese Site Hog Farm facility. If the facility is comprised of more than one parcel, identify each parcel along with the owner or owners of each such parcel. They shall further provide a description of the corporate or business structure of the entity owning the real estate at the Breese Site Hog Farm, including a statement of whether the facility is owned by a corporation, a partnership, or a sole proprietorship. Provide the full formal name of the corporation, partnership, or sole proprietorship; also identify any and all fictitious names used. List the names and addresses of all persons who currently own an interest in MSSA Partnership. List the names and addresses of all persons who are officers and/or directors of MSSA Partnership.
52. The Respondents shall submit all the documents and responses required by this information request within ninety (90) calendar days of the Effective Date of this Order to the Director, Water Division, Region 5, EPA, Attention: Joan Rogers, Water Enforcement and Compliance Assurance Branch, (WC-15J), at 77 West Jackson Boulevard, Chicago, Illinois 60604, with copies to IEPA, Attention: Byron Marks, Manager, Illinois EPA-DWPC, 2309 West Main Street, Marion, Illinois 62959.

REQUEST FOR CONFERENCE AND EFFECTIVE DATE

53. Within 10 calendar days after receipt of this Order, the Respondents may request an informal conference with EPA. Any such conference shall be held within 15 calendar days from the date of the request, unless extended by agreement of the parties. At any conference held pursuant to the request, the Respondents may appear in person, participate by telephone, and/or be represented by an attorney or other representative. If a conference

is held, the Respondents may present any information, arguments or comments regarding this Order. This conference is not a formal evidentiary hearing, does not constitute a proceeding to challenge this Order, and does not give the Respondents a right to seek review of this Order. To request an informal conference, the Respondents should contact Joan Rogers at (312) 886-2785, or the Respondents' attorneys may contact Kevin Chow, EPA Region 5, Office of Regional Counsel at (312) 353-6181.

54. Regardless of whether a conference is requested, the Respondents may submit to EPA in writing via certified mail any relevant information, arguments or comments, provided such information is received by EPA within 10 calendar days of the Respondents' receipt of this Order, unless extended by agreement of the parties.
55. Unless the Respondents request a conference or submit information pursuant to Paragraphs 53 or 54, above, this Order is effective 10 calendar days after its receipt by the Respondents. If the Respondents request an informal conference or submit written information pursuant to Paragraphs 53 or 54, above, this Order will become effective 10 calendar days after the informal conference or EPA's receipt of written submittals, whichever is later unless, based on information presented by the Respondents, EPA withdraws or modifies this Order. If EPA modifies this Order based on information presented by the Respondents, the Order, as modified, is effective upon receipt by the Respondents.

GENERAL PROVISIONS

56. The written statements submitted pursuant to this Order shall be notarized and returned under an authorized signature certifying that all statements contained therein are true and accurate to the best of the signatory's knowledge and belief. Any documents submitted to


EPA pursuant to this Order should be certified as authentic to the best of the signatory's knowledge and belief.

57. Should the signatory find at any time after submittal of the requested information that any portion of its response is false or incorrect, the signatory shall notify EPA, Region 5 immediately (See attached Authority and Confidentiality Provisions, Exhibit 2). If any portion of the response certified as true is found to be false, the signatory can be prosecuted under 18 U.S.C. § 1001. The EPA has the authority to use the information requested herein in an administrative, civil, or criminal action.
58. The information required to be maintained or submitted pursuant to this Order is not subject to the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 et seq. Neither the issuance of this Order by the EPA nor compliance with its terms affects the Respondents' ongoing obligation to comply with the CWA or any other Federal or State law or regulation, nor does it preclude further enforcement action pursuant to 33 U.S.C. § 1319 for the violations cited herein or any other violations committed by the Respondents.
59. Neither the issuance of this Order by the EPA, nor compliance with this Order by the Respondents, shall be deemed to relieve the Respondents of liability for any penalty, remedy, or sanction authorized to be imposed pursuant to Section 309(b), (c), or (g) of the CWA, 33 U.S.C. § 1319(b), (c), or (g), for any violation of applicable requirements of the CWA. EPA specifically reserves the right to seek any or all of the remedies authorized under these provisions for each and every violation specified in this Order. The CWA includes provisions for administrative penalties, for civil injunctive relief and penalties, and for criminal sanctions for violations of the CWA. Specifically, EPA may assess civil administrative penalties of sixteen thousand dollars (\$16,000) per day of violation, up to a

maximum of one hundred seventy seven thousand five hundred dollars (\$177,500) under 33 U.S.C. § 1319(g), or seek civil judicial penalties of thirty seven thousand five hundred dollars (\$37,500) per day of violation and civil injunctive relief for violations of the CWA under 33 U.S.C. § 1319(b). Furthermore, EPA may seek criminal sanctions, including fines and imprisonment, for negligent or knowing violations of the CWA under 33 U.S.C. § 1319(c).

IT IS HEREBY ORDERED:

By:


Tinka G. Hyde
Director, Water Division

11 JUNE 2010
Date